

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the matter of)	
)	
)	
Second Periodic Review of the)	MB Docket No. 03-15
Commission's Rules and Policies)	
Affecting the Conversion to)	RM 9832
Digital Television)	
)	
Public Interest Obligations of TV)	MM Docket No. 99-360
Broadcast Licensees)	
)	
Children's Television Obligations of)	MM Docket No. 00-167
Digital Television Broadcasters)	
)	
Standardized and Enhanced Disclosure)	MM Docket No. 00-168
Requirements for Television Broadcast)	
Licensee Public Interest Obligations)	

COMMENTS OF MEDIA GENERAL COMMUNICATIONS, INC.

Media General Communications, Inc. ("Media General"), by its attorneys, hereby submits its Comments in response to the *Notice of Proposed Rule Making* (the "*NPRM*") in the above-referenced proceeding. In particular, Media General urges the Federal Communications Commission to grant satellite television stations permission to commence digital broadcasting at the end of the digital television transition period. Media General, as the licensee of five satellite stations, has a special appreciation for the almost insurmountable obstacles that such stations would face in the absence of such relief, and offers these Comments in response to the Commission's request for input on this topic of tremendous importance both to the operators of such stations and to the residents of the communities that satellite stations serve.

INTRODUCTION

Media General is owned by Media General, Inc., a publicly owned communications company situated primarily in the Southeastern United States, with ownership interests in newspapers, television stations, interactive media, and diversified information services. Media General and its affiliated companies are committed to maintaining their status as leading providers of high-quality news, information and entertainment by continually building their position of strength in strategically located markets. Built on a base of three television stations in 1997, Media General's twenty-six network-affiliated television stations today reach more than thirty percent of the television households in the Southeast and nearly eight percent of television households in the United States.

The Commission initially awarded paired channels and construction permits authorizing construction by Media General of twenty-six DTV stations in the generally small and mid-sized markets that Media General serves. Media General demonstrated its commitment to digital television by aggressively pursuing construction of DTV facilities in each of the twenty markets in which it operates a full-service television station. In the past five years, Media General constructed and commenced DTV operations for eighteen full-service television stations, and it expects to commence operations on the final three full-service digital television stations very soon. Just to construct these DTV stations, Media General has incurred total costs exceeding \$30,000,000. Virtually all of these DTV stations broadcast High Definition DTV programming when and as provided by their networks. Several DTV stations are currently operating with reduced power pursuant to special temporary authorizations; the full-power build-out for these DTV stations will require at least \$39,000,000 in additional expenditures. Merely to operate its DTV facilities, Media General incurs annual costs approaching \$500,000. Virtually none of these expenditures have been offset by revenue derived from DTV operations.

In addition to twenty-one full-service television stations, Media General holds licenses for five television stations that operate as satellite stations (collectively, the "Satellite Stations") pursuant

to Commission authorization. The Satellite Stations enable Media General to deliver free, over-the-air broadcast network programming to small, typically rural communities that cannot support operation of these stations on a full-service basis. The Satellite Stations consist of WHLT(TV), Hattiesburg, Mississippi, over which Media General provides service in and around a municipality that registered a 2000 census population of 44,779; KBSH-TV, Hays, Kansas (2000 census population 20,013); WNEG-TV, Toccoa, Georgia (2000 census population 9,323); KBSL-TV, Goodland, Kansas (2000 census population 4,948); and KBSD-TV, Ensign, Kansas (2000 census population 203).

The Commission's former Mass Media Bureau previously concluded that the Satellite Stations qualify for satellite status.¹ In particular, the Bureau determined that the sparsely populated areas served by the Satellite Stations cannot support full-service operations, thereby rendering the stations' financial viability an "improbability" without a commonly owned and operated parent station. As the operator of five satellite stations, Media General is eminently qualified to discuss the economic hardships that such stations face in their day-to-day operations, and to testify to the need for the special status that the Commission proposes to grant to such stations during the remainder of the DTV transition period.²

DISCUSSION

In the *NPRM*, the Commission requested comment on the advantages and disadvantages of allowing satellite stations to surrender their paired channel allotments and digital authorizations and

¹ *Letter from Barbara A. Kreisman, to John R. Feore, Jr., Esq. and Nina Shafran, Esq., at 2-6* (Video Serv. Div. Mar. 22, 2000) (WNEG-TV; KBSD-TV; KBSH-TV; KBSL-TV); *Media General Broadcasting, Inc.*, 12 FCC Rcd 10434, ¶ 12 (Mass Media Bur. 1997) (WHLT(TV)).

² On November 6, 2001, Media General filed with the former Mass Media Bureau a Request for a Limited Waiver of the Commission's digital television construction and operational requirements for the Satellite Stations. During the pendency of that request, the Commission has extended the expiration dates for the Satellite Stations' DTV construction permits per Media General's request.

“flash-cut” to DTV transmission at the end of the transition period.³ The *NPRM* specifically sought comment on whether such status “will hinder the overall transition to digital television and harm viewers by delaying their access to digital signals.”⁴ Media General believes that the special status proposed by the Commission will redound to the benefit of viewers without hindering or delaying the overall DTV transition. Furthermore, any Commission order that worked to disallow such special status would indeed “overly burden satellite stations financially,”⁵ because such stations as a rule cannot justify the expense of constructing digital facilities and broadcasting simultaneously both an analog and a digital signal. Finally, Media General does not believe that allowing satellite stations to “flash-cut” to digital would present any legal impediment to satisfying the mandates of Section 309(j)(14) of the Communications Act.⁶

I. Satellite Stations Serve the Public Interest by Providing Local Service to Communities with Limited Access to Local Broadcast Television Content.

As noted in the *NPRM*, the Commission first authorized satellite television operations in 1954 in sparsely populated areas such as those served by Media General’s Satellite Stations, because these areas “were deemed to have economic bases insufficient to support stand-alone, full-service operations.”⁷ The Commission subsequently authorized satellite stations in larger markets when applicants could similarly demonstrate that the proposed satellite stations would be unable to operate as stand-alone, full-service television stations.⁸

The Commission has defined a “satellite” station as one “operating on a Channel specified in the rules, but one which usually originates no local programming. . . . It rebroadcasts the

³ *NPRM*, ¶ 127.

⁴ *Id.*

⁵ *Id.*

⁶ 47 U.S.C. § 309(j)(14) (2000).

⁷ *NPRM*, ¶ 127 (citing *Authorization of UHF Stations*, 43 FCC 2734 (1954)).

⁸ *Id.* (citing *Suburban Broadcasting Corp.*, 83 FCC 2d 359, 365-66 (1980)).

programming of the parent station.”⁹ For this reason, the Commission observed in 1987 that, “[i]n many respects, television satellite stations, television translators and low power television stations provide service to the public in the same way.”¹⁰ As a satellite station, the broadcast facility is exempt from a number of Commission requirements applicable to full-power television stations. Specifically, such a station generally need not maintain a main studio, a full-time staff presence, a public inspection file, or a toll-free telephone number.¹¹ Indeed, it is likely that most satellite television stations consist of little more than a collection of broadcast transmission equipment enabling only the rebroadcast of the programming of the full-service “parent” station located in another community.

II. Satellite Stations Compelled to Construct DTV Facilities During the Transition Period May Face Unbearable Financial Burdens and Virtual Extinction.

The difficult market conditions that led the Commission to authorize the creation of satellite stations in the first place often make continued operation of satellite stations a losing proposition from a financial standpoint. The economic realities facing Media General in the Satellite Stations’ markets are such that Media General has continually experienced financial losses on its analog broadcast operations at each of these stations. It is Media General’s belief that many or most satellite station operators find themselves in the same precarious economic position. Thus, it is difficult to conceive of many operators of such stations as willing to multiply their current losses by constructing and then operating DTV facilities at stations that are already losing money in markets with very small economic bases.

⁹ *Multiple Ownership of Standard, FM and Television Broadcast Stations*, 45 FCC 1476, reconsidered in part, 45 FCC 1728 (1964).

¹⁰ *Television Satellite Stations: Review of Policies and Rules*, 2 FCC Rcd 1359, ¶ 1 (1987)

¹¹ *See id.* ¶ 6.

Under Section 73.624(d)(1)(iii), all full-power commercial television stations – including stations authorized as satellites – were obligated to construct DTV facilities by May 1, 2002.¹² Stations not meeting that deadline were able to extend their DTV construction permits twice upon application to the Media Bureau, and thereafter by application to the full Commission.¹³ In Media General’s case, the construction at the Satellite Stations of even low-power DTV facilities would require an outlay of approximately \$3,750,000. Thereafter, constructing full-power DTV facilities for the Satellite Stations would require at least \$6,000,000 in additional expenses.

The already poor financial prospects for the Satellite Stations render additional expenses of this magnitude simply unfeasible. Furthermore, Media General’s analog operations at these stations already produce financial losses, and simultaneously transmitting a digital signal would simply aggravate this negative cash flow. As a publicly traded company with fiduciary duties to shareholders, Media General’s parent company quite simply cannot justify spending the millions of dollars in additional capital expenditures needed to finance DTV construction, or the mounting operational expenses, for these stations.

If Media General is forced to construct DTV stations in the satellite communities, it will be required to eliminate most if not all of the resources currently dedicated to sustaining local operations at the Satellite Stations. More importantly, reducing the local presence that Media General generally provides at its Satellite Stations would not alleviate the need for Media General to take even more drastic cost-cutting measures. Ultimately, the additional losses incurred in operating both an analog and a digital station in the satellite markets would force Media General to surrender the Satellite Stations’ licenses to the Commission. As a result, television viewers who depend on the Satellite Stations would lose the free, over-the-air services they currently enjoy. In some cases, this would

¹² 47 C.F.R. § 73.624(d)(1)(iii) (2002).

¹³ *Id.* § 73.624(d)(3)(i), (iii).

entail the loss of more than just network programs and the parent station's local programming because Media General generally employs local staff and provides local programming at its Satellite Stations.

Media General submits that such a loss of free, over-the-air analog service in these small and typically rural communities would produce demonstrable harm to the public interest without yielding any real benefit. Furthermore, Media General has every reason to believe that the dire economic circumstances with which it contends are not unique to the markets in which the Satellite Stations are located. For instance, Media General notes with interest the recent decision of Citadel Communications ("Citadel"), operator of KLKN(TV), Lincoln, Nebraska, to cease operation of satellite station KLKE(TV), Albion, Nebraska, as of March 2, 2003.¹⁴ Citadel surrendered the license for KLKE due to the "prohibitive costs of continued operation" of this satellite station, as well as the "significant investment [required] to upgrade it to a digital facility."¹⁵ According to a trade press report, KLKE appears to be the first station to go dark due, at least in part, to the high costs associated with the transition to digital broadcasting.¹⁶ Citadel indicated that the satellite station was already losing approximately \$150,000 per year on analog operations in its rural market,¹⁷ and estimated that converting to digital would have cost between \$1 million and \$2 million.

Media General, likewise, simply could not viably transmit both analog and digital signals on its Satellite Stations. Based on the available information regarding Citadel's decision, Media General is confident that many other satellite station operators share its plight.

¹⁴ See Press Release, KLKN(TV), Channel 24 Will Cease Broadcasting, <http://www.klkntv.com/Global/story.asp?s=%20%201148080> (last visited Apr. 14, 2003).

¹⁵ *Id.*

¹⁶ See *Expense of DTV Transmission Costs One Small Station Its License*, COMM. DAILY, Mar. 7, 2003, at 7.

¹⁷ *Id.*

III. Allowing Satellite Stations to Commence DTV Transmissions at the End of the Transition Period Will Not Hinder the Overall Conversion to Digital.

In the absence of flash-cut authorization, satellite station operators would face the Hobson's choice of immediately surrendering their analog broadcast licenses, or ceasing operations only after taking on unmanageable debt and additional uncompensable losses. In other words, allowing the special status for satellite stations proposed in the *NPRM* may prevent already bleak financial prospects from driving such stations off the air completely, because satellite station operators may choose to go dark before sinking additional, unrecoverable funds into transitional DTV construction and operation. Compelling DTV construction for satellite stations that cannot afford it would actually *lessen* the number of satellite stations on the air and therefore the number of broadcast voices in the communities these stations serve. This result would constitute a tremendous harm to the public interest especially in rural areas.

In contrast, the Commission's proposal would impose minimal costs on the nationwide DTV transition, due to the rural nature of the small markets that most satellite stations serve. Moreover, the impact would be minimal even in these largely rural and low population density areas. Although satellite television stations provide local service to many communities and areas that are otherwise underserved by full-service broadcasters, many households receiving an off-air signal from a satellite station may have access to at least one off-air DTV signal of a distant full-power television station broadcast from a larger city.¹⁸ As a result, a delay in constructing DTV stations in the satellite communities will not hinder overall DTV transition or delay most viewers' access to digital signals.

Finally, the *NPRM* invited comment on whether making the flash-cut option available to satellite stations would erect a barrier to satisfying the requirements of Section 309(j)(14)(B)(i) of the

¹⁸ Media General commissioned a technical study in the markets that the Satellite Stations serve in support of its November 6, 2001 Request for a Limited Waiver of the Commission's DTV construction and operational rules with respect to the Satellite Stations. The Technical Statement of John A. Lundin of du Treil, Lundin & Rackley, Inc. attached thereto demonstrated that the majority of the service areas for the Satellite Stations received at least one other DTV service.

Communications Act.¹⁹ The *NPRM* noted that the Commission had earlier in the same *NPRM* “proposed to interpret Section 309(j)(14)(B)(i) to require that all stations in the market licensed to or affiliated with a top-four TV network be broadcasting in digital before analog service must cease in the market, even if a top-four network has more than one affiliate in the market.”²⁰ Media General would suggest, in the special circumstances attending operation of otherwise non-viable satellite stations, that the Commission need not interpret this section of the Communications Act to allow for the indefinite postponement of the end of the transition period. As discussed below, the Commission could grant special status to all satellite stations but require such stations to commence digital transmission by the end date of the transition period mandated by Section 309(j)(14)(A).²¹

IV. The Commission Should Treat Satellite Stations as New Stations for Purposes of the DTV Transition, Allowing Satellite Stations to Commence DTV Transmissions By or Before the End of the Transition Period.

As demonstrated above, affording satellite stations the special status put forth for comment in the *NPRM* would advance the public interest by making continued operation of satellite stations feasible, thereby allowing continued broadcast television service in unserved or underserved and largely rural communities. However, Media General asks the Commission to make clear that satellite stations taking advantage of such special status would not lose certain rights and protections available to full-service television stations during the transition period.

The Commission has stated that a television station failing to meet the DTV construction deadline “would forfeit [its] initial exclusive eligibility for a set-aside, DTV channel but would still

¹⁹ *NPRM*, ¶ 128 (citing 47 U.S.C. § 309(j)(14)(B) (“The Commission shall extend the date” for cessation of analog television service in a market upon request “if the Commission finds that (i) one or more of the stations in such market that are licensed to or affiliated with one of the four largest national television networks are not broadcasting a digital television service signal.”)).

²⁰ *Id.*

²¹ 47 U.S.C. § 309(j)(14)(A).

remain eligible to apply for any [DTV] channel at any later date.”²² As a practical matter, however, it is unclear whether such a station would be able to obtain a subsequent authorization permitting construction and operation of DTV facilities before the currently scheduled 2006 end date for the DTV transition. If such a station fails to obtain a subsequent authorization to broadcast digitally by the time that it surrenders its NTSC analog license, it will be forced to cease broadcasting altogether.²³

To remove any uncertainty about the ability of a satellite television station to transition to digital by the end of the DTV transition period (as well as any doubt about the definite cessation of analog service in a market served by a top-four network-affiliated satellite station), Media General proposes that the Commission treat satellite stations in the same manner that it treats “new stations” – those full-power (including full-service) television stations whose initial applications were granted after April 3, 1997. “New stations” were awarded a single channel allotment, and upon application to the Commission, may convert their analog facilities to digital at any point prior to the end of the DTV transition.²⁴

In particular, Media General encourages the Commission to adopt regulations that would allow a satellite station to surrender one of its paired channels now (thereby freeing up this spectrum for other uses), provided that it constructs fully operational DTV facilities on its retained channel that replicate its current analog service areas by or before the end of the DTV transition period in its

²² Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, *Memorandum Opinion and Order/Third Report and Order/Third Further Notice of Proposed Rule Making*, 7 FCC Rcd 6924, ¶ 16 (1992). See Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, *Fifth Report and Order*, 12 FCC Rcd 12809, ¶ 61 (1997) (“*Fifth Report and Order*”).

²³ *Fifth Report and Order* at ¶ 63; Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, *Fourth Further Notice of Proposed Rule Making/Third Notice of Inquiry*, 10 FCC Rcd 10540, ¶ 63 (1995).

²⁴ Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order*, 13 FCC Rcd 6860, ¶ 11 (1998).

market.²⁵ After construction of its DTV facilities, a satellite station would retain the interference protection currently associated with its DTV allotments for a period of 31 months.²⁶

The proposal outlined herein would impose minimal costs on the nationwide DTV transition and would give effect to the Commission's prior recognition that satellite stations, by definition, are not economically viable operations. By facilitating the return of transitional DTV channels, a grant of the proposal would permit the Commission to reallocate the unused spectrum to other users (including perhaps other television broadcasters) through auctions or other means. Most importantly, a grant of this proposal would assist Media General and other satellite station operators in their efforts to preserve local service to generally rural communities, even in the face of harsh economic realities. Conversely, failure to afford the limited relief sought herein could impose a financially fatal obligation on Media General's Satellite Stations and satellite station service as a whole.

²⁵ The FCC has afforded similar treatment to those television licensees who surrender an authorization on Channel 59 through 69 to accommodate band clearing. *See* Service Rules for the 746-764 and 776-794 MHz Bands, *Order on Reconsideration of the Third Report and Order*, FCC 01-258, ¶ 10 (rel. Sept. 17, 2001).

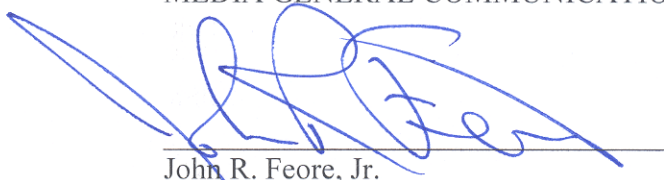
²⁶ The FCC has afforded identical treatment to band clearing television stations. *Id.* ¶ 20.

CONCLUSION

For these reasons, Media General urges the Commission to allow satellite stations to flash-cut to DTV transmission at a time of each satellite station's choosing, but in no event later than the end of the DTV transition period. Permitting this limited relief would promote the continued viability of these stations and spare them from overly burdensome financial obligations, without hindering the overall transition to digital television or harming viewers by delaying their access to digital television signals.

Respectfully submitted,

MEDIA GENERAL COMMUNICATIONS, INC.

A large, stylized handwritten signature in blue ink, likely belonging to John R. Feore, Jr., is written over a horizontal line.

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